

**MINUTES OF THE CITY PLANNING COMMISSION
J. MARTIN GRIESEL ROOM**

August 27, 2004
9:00 A.M.

PRESENT: *Appointed Members:*

Don Mooney, Caleb Faux, Jim Tarbell, Jacqueline McCray and Valerie Lemmie

Community Development and Planning Staff:

Margaret Wuerstle, Virginia Vornhagen, Steve Briggs, Caroline Kellam and Katherine Keough-Jurs

Law Department:

Dotty Carman and Julia Carney

CALL TO ORDER

Mr. Mooney called the meeting to order.

MINUTES

The minutes from the July 30, 2004 meeting were presented. Ms. McCray requested some changes. The revised minutes will be presented again at the next Planning Commission meeting.

CONSENT ITEMS

ITEM #1 – authorizing the sale of surplus City-owned property located at 804-806 Findlay Street, commonly known as Hamilton County Auditor's Parcel Number 132-2-190 which real property is no longer needed for any municipal purpose.

ITEM #2 – an emergency ordinance authorizing the vacation of Britt Alley between W. 9th Street and Pendery Alley, and terminating a 1998 Rental Agreement between Cincinnati Hills Christian Academy, Inc. (CHCA) and the City of Cincinnati (City) for said portion of Britt Alley.

Motion: Mr. Tarbell moved approval of Consent Items (excluding Item #3)

Second: Mr. Faux

Vote: All ayes (4-0), motion carries.

ITEM #3 – a Report and Recommendation on the vacation of a portion of Hawthorne Avenue in Price Hill to facilitate the construction of the new Price Hill school.

This item was taken off the Consent list.

Katherine Keough-Jurs (Staff Planner) presented this item. Cincinnati Public Schools (CPS) has asked for the vacation of this portion of Hawthorne Avenue as it runs through the site on which the new Price Hill School will be built. All adjacent properties have been purchased by CPS or have secured access to their property.

At a future meeting, CPC will be asked to make a recommendation on the vacation of the remaining portion of Hawthorne Avenue that intersects Glenway Avenue. This will come separately because the City's Department of Transportation and Engineering was asked that it also be vacated and given to the two adjacent property owners. The owner of one lot is in agreement. The owner of the other lot is not in agreement.

Mr. Mooney wanted to know if there were any buildings to tear down. Staff responded that no residential structures would be demolished as a result of this vacation.

Motion: Ms. Lemmie moved approval
Second: Mr. Faux
Vote: All ayes (4-0), motion carries.

DISCUSSION ITEMS

ITEM #4 -- a Report and Recommendation on a draft Urban Renewal Plan for Marburg Square located in the neighborhood of Oakley (west of Marburg Avenue, north of Wasson Road and east of Eastern Hill Lane).

Steve Briggs (Staff Planner) requested a two-week postponement on behalf of the applicant.

Motion: Mr. Tarbell moved approval of postponement of Item #4
Second: Mr. Lemmie
Vote: All ayes (4-0), motion carries.

ITEM #5 --a Report and Recommendation on a Plat of Subdivision for the City West North – Phase 1 subdivision; north of Ezzard Charles Drive and East of Linn Street in the West End neighborhood. (map available at the meeting).

Steve Briggs (Staff Planner) indicated this should be a Consent item as it conforms to all subdivision requirements by all pertinent City departments, i.e. water, sewage, etc.

However, Mr. Kenneth Kreider of 1400 Provident Tower, East 4th Street, wanted to address the possibility of narrowing Turnbow Avenue (north side about 4 feet and south side a variable amount approximating to 4 feet).

Mr. Mooney wanted to know if the adjustment was for aesthetics or just to make more space. Mr. Kreider responded that it was to make this street more compatible with the others in the development. This change would accommodate the townhouse development. Mr. Kreider also informed the Commission that the sidewalks would have to accommodate water pipes underground. An ordinance for the narrowing of Turnbow Avenue would require working with the Law Department and Water Works.

Motion: Ms. Lemmie moved approval

Second: Mr. Faux
Vote: All ayes (4-0), motion carries.

ITEM #6 –a Report and Recommendation on the sale of five parcels of surplus City-owned property (including two sections of South Street) located in Lower Price Hill, which real property is no longer needed for any street and municipal purpose, to the Board of County Commission of Hamilton County, Ohio in return for the conveyance to the City of Cincinnati of three parcels of property located in Lower Price Hill by the Board of County Commission of Hamilton County, Ohio.

Steve Briggs (Staff Planner) informed the Commission that this would be a land swap which would consolidate property around Spinney Field and Gest St.

Motion: Ms. Lemmie moved approval
Second: Mr. Faux
Vote: All ayes (4-0), motion carries.

ITEM #7 – a Report and Recommendation on a proposed zone change from the RMX Residential Mixed to a CN-P Commercial Neighborhood – Pedestrian at 2711 Observatory Avenue and a proposed zone change from RMX Residential Mixed to OL Office Limited for the properties located at 2715-2741 Observatory Avenue in the neighborhood of Hyde Park.

Caroline Kellam (Staff Planner) presented this request for the re-zoning of property at 2711 Observatory from RMX to CNP and the re-zoning of the remaining properties (2715 to 2741 Observatory) from RMX to OL. In late June of 2004, a Zoning Staff Conference was held with notification to the neighborhood council and property owners within 400 ft. of the subject property. Two properties now have non-conforming use; they are small doctors offices. They had previously been non-conforming. All of the properties were previously zoned R-5 (multi-family residential) and are currently zoned RMX; a mixed residential zoning.

Mr. Faux asked what uses the neighboring properties zoned Office Limited included. Staff responded there are two hair salons and an architect's office. Many of the properties have been somewhat altered with signs out front, paving around back for customer parking which impacts the residences to the back of these properties. Property owners are concerned about the impact and want to see a transition from the Office Limited zoning across the street and the single-family zoning to the south.

Mr. Sorrentino owns the property at 2741 Observatory and requested the zoning change. The remaining seven properties abutting his property are zoned residential.

Mr. Tarbell felt it would be best to look for a way to make a concession on this particular request. He also indicated that holding back on this zoning change would work against the neighborhood and stop it from attaining the highest and best use of this property.

Mr. Sorrentino was asked to come forward. He began reading his statement.

MS. MCCRAY ENTERED THE MEETING AT 9:30 A.M.

Mr. Sorrentino told the Commission that next to his property there are two medical offices and a multi-family building. All the properties have cement parking. He bought the property for his three-person office. Now he is hearing of the possibility of a Jiffy Lube being built on his property. Regardless of this speculation, across the street there are a number of small businesses and no Jiffy Lube was built on that side of the street.

The back yard previously had a concrete slab which was crumbling. A 4-foot high wall that was crumbling has been fixed and he said he has put in 17 trees and miscellaneous shrubbery.

He respects the area so much he even named his business Hyde Park Mortgage and plans to be there for quite a while. He apologized to the neighbors for their inconvenience and hoped the Planning Commission will make a decision for the zone changes.

Mr. Tarbell requested Mr. Sorrentino to specify exactly what improvements Mr. Sorrentino had made to the property. Mr. Sorrentino then showed a picture of his property with the improvements.

Mr. Wollenweber was called to speak, however, he yielded to Mr. Walsh who is the neighbor to the south of the subject property. Mr. Walsh and his wife are against the zone change. Mr. Walsh reminded the Commission that Mr. Sorrentino had discussed this change with them in October of 2003, at which time this zoning was left residential. When he was told that he could not do business there according to the zoning regulations, he went to City Council about the crumbling retaining wall. Mr. Walsh and his group have passed out flyers and eventually received 100 signatures requesting denial of the zone change. Mr. Walsh stated that he has already invested a great deal of money in his property, but he has hesitations on future upkeep if a zone change goes through in favor of Mr. Sorrentino.

The next speaker was Mr. Uebelacker. Mr. Uebelacker indicated his frustration because on this one issue he had been before the Commission at least three times. The Hyde Park Square Community Plan specifies retention of all existing residential properties in the area. City Council, Hyde Park Neighborhood Council and the Planning Commission adopted this Hyde Park Plan. The community opposed doctor offices because of patient and employee parking issue. Mr. Uebelacker said that problems are already burgeoning because of the parking overflow and increased traffic, both of which are causing an increase in accidents and the need for more crosswalks. He went on to state the issue is not, as Mr. Tarbell says, of change being inevitable, but rather the issue is of the negative impact on the neighborhood to the south if there is a change in the zoning to Office Limited. We are not inclined to hysteria, or paranoia, but rather to the sure knowledge that a change at this time will ensure great problems for the future of our neighborhood.

The next speaker was Mr. Jenkins of 1335 Michigan Avenue. Mr. Jenkins felt that if the south side of the street is changed, even to Office Limited, the problems of parking, traffic, etc. will make quantum negative leaps and that statistics on the increase in the number of auto accidents validate this association. He felt these problems alone would depress property values. Mr. Jenkins reminded the Commission, that Mr. Sorrentino started his business at a time when it was illegal and he knew it.

Mr. Stevens of 1332 Michigan Avenue was the next resident to address the Commission. His property is about five houses from the property owned by Mr. Sorrentino. He reminded the Commission that the 3200 Madison Project had not been opposed by the Hyde Park Neighborhood Council or the community in general, but that this particular change would lead to a problem of safety for the children. At the time the hair salon was put in place the neighborhood did not understand the repercussions of the parking situation. Now that they do understand, they must act to stop future encroachments of this sort. A concern was that Mr. Sorrentino could very easily decide to sell the property because the business did not develop the way he wanted it to. A new owner could, with this zoning change, build anything he wanted with lot size being the only restriction. Mr. Stevens also reminded the Commission that Mr. Sorrentino started his business at a time when he knew it was illegal.

Mr. Tarbell asked for someone to verify the location of the hair salons.

The next speaker was Gary Wollenweber of 1330 Edwards Rd. Mr. Wollenweber is the chairperson of the Hyde Park Zoning Committee. He also presented to the Commission two letters from other neighborhood property owners opposing the zone change.

In his official capacity as chairperson of the Hyde Park Zoning Committee, Mr. Wollenweber said he found it difficult to convey the severity of parking problems and safety issues. He was concerned that if the Staff Recommendation were reversed to allow for Mr. Sorrentino, and whatever future possibilities, the problems would increase exponentially. He felt the problems won't level out nor will they "go away" and that every few years when a property comes up for sale, if the zoning is changed now, we will face another difficult conversion. Mr. Wollenweber asked that the Commission support the Staff Recommendation.

Mr. Tarbell said he now agreed that the zone change would be a negative move for the area. After having had time to consider the testimony of the neighborhood property owners, the Staff Report and the opinions of the other Commission. Also, after reviewing the letters presented by Mr. Sorrentino on his own behalf, they were from people outside the Hyde Park area.

Motion: Mr. Tarbell moved to approve the Staff Report

Second: Mr. Faux

Vote: All ayes (5-0), motion carries.

Ms. McCray complimented the residents on their determination in repeatedly returning to present their views at these meetings. A similar situation has recently occurred in the Clifton area. Ms. McCray also stated the necessity to resume the planning of our community. At the present time only 28 neighborhoods have a plan. We must initiate updating our neighborhood plans. The neighborhoods must present their case to City Council that a plan for each neighborhood is a necessity.

Ms. Lemmie also complimented the property owners on their active participation in this process. She expressed the need for each neighborhood to participate as the Hyde Park group has.

ITEM #10 – a Report and Recommendation to re-name a portion of Eastern Avenue from the termination of Pete Rose Way eastward to the railroad overpass, Riverside Drive. Held over from July 30, 2004 CPC meeting.

Steve Briggs (Staff Planner) informed the Commission that this item had been brought up in October 2003 and May of 2004. Both times the name change was denied. The main objection was that response time for any emergency vehicle could be delayed because of confusion on the newly re-named street.

Mr. Mooney presented two thoughts: 1) that our emergency response teams were extremely competent and could take on the name change and response time with ease, 2) that the whole of Eastern Avenue should be re-named to Riverside Drive.

The first speaker on this issue was Ms. Klug, Staff to the Cincinnati Park Board who represented the Director, Mr. Willie F. Carden, Jr. The Park Board supports the name change from Eastern Avenue to Riverside Drive. Re-naming the street would not interfere with the newly opened City park “Theodore M. Berry International Friendship Park”.

Mr. Dean Gregory, of the Boathouse Restaurant, was in support of the re-naming of the street. He felt that a re-naming of the street would indicate a truly new beginning for this area.

Mr. Kerry McManus, 900 Adams Crossing, a condo owner, felt the area has been a wasteland for 12 years. With all the great improvement/investment in this underdeveloped area, Riverside Drive seems to be a good name for an area that is beginning to grow and develop.

Pat Burke of 901 Adam Crossing, bought the Fire House in 1997, and feels the name change would acknowledge the improvements made in the area thus supporting the development. Since the East End has its own identity, a new name would identify the area in newer terms.

Arn Bortz was the next speaker. He specified the request for the name change would be from the railroad overpass west into the city at Pete Rose way and believed that emergency services would find it when needed.

Mr. Mooney felt a change in the street name would be a good thing for this new development. He felt there was no conflict here.

Motion: Ms. McCray moved disapproval of the Staff Report

Second: Mr. Faux

Vote: All ayes (5-0), motion carries.

ITEM #9 -- a Report on Actions to take with regard to a Zone Change requested by Eastside Roofing-Siding-Windows Company, located at 3145 Linwood Avenue in Mt. Lookout.

Item #9 was a request for the Commission to direct Staff to prepare a zoning study without the payment of \$300. The zoning on subject property was changed during the Zoning Code re-write

process and the petitioner requests that the zoning be changed back to the previous zoning designation.

Motion: Mr. Faux moved to approve the Staff Study

Second: Ms. Lemmie

Vote: All ayes (5-0), motion carries.

ITEM #8 – Proposed Zoning Code Text Amendments:

- § 1401-01 C17 Contractor's Storage - Definition
- § 1401-01 Fence - Definition
- § 1401-01 H1 Height, Building - Definition
- § 1401-01 M3 Medical Services and Clinic – Definition
- § 1401-01 O Office – Definition
- § 1401-01 Public Nuisance – New Definition
- § 1403-07 Development regulations – Single Family Districts – Typographical Error
- § 1405-05 Use Regulations – Residential Multi-family Districts – L7 Condition
- § 1405-09 Truck Docks; Loading and Service Areas – Modification
- § 1409-27 Outdoor Facilities and Outdoor Storage - Clarification
- § 1409-29 Outdoor Retail Sales - Location of Sales Area
- § 1421-01 Accessory Residential Structures - Location
- § 1421-01 Accessory Residential Structure - Setbacks
- § 1421-33 Fences and Walls - Maximum Height
- § 1425-03 Requirements for Off-Street Parking and Loading - Modification
- § 1425-19 Off-Street Parking and Loading requirements - Modification
- § 1425-27 Parking Lot Screening – Modification
- § 1425-37 Surfacing, Drainage and Grade of Parking and Loading Facilities - Modification
- § 1427-03 N Nonconforming Sign – Modification
- § 1427-39 Sign Standards for the M, RF-R, RF-C and RF-M Districts - Modification
- § 1427-45 Maintenance, Abandonment and Removal – Of signs
- § 1435-35 Relationship to Variances, Special Exceptions and Conditional Uses – Correction
- § 1441-11 Certificates of Occupancy and Use - Correction
- § 1443-05 Public Hearing Schedule and Notice – Noticing Requirements

After remarking on the length of Item #8, Mr. Mooney requested speakers to be brief in their remarks and then submit details in writing. The Commission will review the written comments, and expects the same from the Law Department and the Chief Planner. The Commission would also like to have input from some of the staff that had worked on the recent Zoning Code re-write, such as Steve Briggs.

Mr. Faux wanted to know why other City departments had not been notified of these changes. Ms. Wuerstle responded that 634 notifications had been sent to community groups, interested citizens, City department heads and City staff. The amendments and notices were published the City Bulletin on August 17th and August 24th.

Mr. Faux wanted to know who requested these changes. Ms. Wuerstle responded that among other items there were a number of issues on signage and when there is a change to one section to clarify

an item, it might directly affect another item within that section. Also, words like, “etc.” and “preferred” need to be removed, and word search revealed more than 70 places where these words appear in the Code. On the Zoning issues we have had many people coming to the Permit Center or calling to ask for specific changes and/or reversals.

Dotty Carman of the Law Department spoke to the Commission about wanting to keep any changes considered by Law and Planning internal until finalized. The Commission responded that it wanted those exchanges to be made available to the Planning Commission as well.

Sections 1400-20 and 1431-01 need additional research and were requested to be withdrawn until the Law Department can finalize their research.

Ms. McCray questioned the use of the word “acceptable” in Section 1431-01 IDC districts and requested that “acceptable” be defined.

Mr. Mooney wanted the Law Department to explain “public nuisance”. Ms. Carman indicated it would create a problem if you make a statutory meaning.

Karen Arnett of 1309 Boyd Street is associated with an environmental group. Ms. Arnett wanted a better definition of the word “nuisance”. Her example was a paint shop which promotes fumes. This problem was not made clear before the shop was in place, and has had a detrimental impact on the neighborhood. Ohio EPA has a ruling that it can only be declared a nuisance once it is open. But after it is open, it is extremely difficult to have a shop taken out. After speaking to an attorney, Ms. Arnett found that there are “public” nuisances as opposed “private” nuisances.

She wanted to have “private nuisance” included because something like a terrible odor would be considered private within that two-block area on most days. Yet if the weather circumstances were just right it would travel beyond its usual bounds, making it a public nuisance.

Mr. Steve Schreiber of 3615 Middleton spoke to the issues on two Sections. The attorneys would take it under advisement.

Mr. Scheiber also felt the IDCs were a problem. He felt that currently the description is narrow and it should be kept that way. An IDC could otherwise come out of the blue. This can be especially difficult when the client wants the attorney to work on due diligence and uncovers one answer, yet if an IDC came into place, the answer would change.

Mr. Jack Brand of 375 Middleton spoke on the section regarding permits issued in error. There would be costs incurred if an applicant relied on a permit and then it was revoked. He also spoke on the proposed IDC amendments.

Mr. Jon Doucleff of 3328 N. Sterling Way had a written statement which he passed out to the Commission. He pointed out that during a four-year re-zoning effort the City hired a nationally known adviser. Some of the proposed changes do not seem to be cognizant of policies proposed in that zoning program and recommended that Staff involved in that four-year process should be involved in these updates.

He did not feel that there was a groundswell to initiate zoning changes. A certain amount of changes and reaction can be expected. There does not seem to be an excessive number of requests for variances and suggested that a waiting period of one year, post publication, before initiating a change process would be acceptable.

Specifically, he felt we should be very careful on how the sign category is re-written. "Be careful to whom you listen on the sign re-write" he stated.

Referencing Section 1425-03 regarding Off-Street Parking Requirements. The illuminating change of use from residential to commercial use.

Section 1425-19 on 2,000 sq. ft. was requested by City Council, CPC has authority to exempt first 2,000 sq. ft. He gave an example of Observatory's on-going situation.

Ms. Gerri Kraus wanted to address three sections in the Zoning Code update as a representative of North Avondale Civic Association and a member of ECO, an environment organization. She supported the proposed changes to Section 1431-01 IDC Districts. Ms. Kraus felt that if a certificate required a public hearing at the time it was instituted, then a new Section 1441-11 should also require a public hearing.

Ms. Krause suggested there should be no difference between the public and private nuisance and explained that City Council noted an air pollution nuisance "substantially interferes with life, health and public safety". Mr. Mooney referred this to the representative from the Law Department. However, Ms. Carman was against the use of the word nuisance.

Ms. McCray noted with regard to planning for the City, we have not had a chance to study the changes that have taken place.

Ms. Lemmie indicated that she must leave now at 10:50 a.m.

Mr. Uebelacker asked the City Manager to stay just a few moments longer because he wanted her to here a particular comment he had. Mr. Uebelacker also indicated that he would submit their suggested changes in writing.

Mr. Uebelacker noted how well the system on notifications of changes has been working recently. He felt that we now must work on putting this online per a previous suggestion to Ms. Lemmie.

Ms. Lemmie suggested a page for communication between interested parties not as a formal / official change but more as a "chat room" format. Ms. Lemmie and Margaret have talked about this type of use of the internet in the past.

Mr. Uebelacker's response to zoning changes on the internet was that it should be handled with great care because of the possibility that the City could be at the mercy of someone who may want to torpedo the efforts of diligent citizens.

Mr. Uebelacker did not feel 300 changes were excessive.

Mr. Marvin Krause of 414 Walnut Street, had comments based on his past experience. He felt that for defining “nuisance” Staff could get people to agree on such items as odors, noise and traffic and suggested that we don’t get hung up on the words private and public. He would also submit suggestions in writing.

Mr. Krause commented on another item regarding Planned Development without conditions after eliminating T zones. Steve Briggs said there were PDs 1-37 that had the Planned Development designation and each one has some type of plan or guideline.

Ms. Wuerstle asked Mr. Mooney about the process for reviewing the proposed Zoning Code changes. She specifically wanted to know if she would be allowed to present the items and discuss why the changes are being requested. Mr. Mooney indicated that she would be allowed to present her comments.

ADJOURNMENT

With no further business to consider, the meeting was adjourned.

Motion: Mr. Faux motioned adjournment
Second: Ms. McCray
Vote: All ayes (4-0), motion carries.

Margaret A. Wuerstle, AICP
Chief Planner
Department of Community
Development & Planning

Donald Mooney, Chair
City Planning Commission

Date: _____

Date: _____